

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION**

STATE OF SOUTH CAROLINA, )  
                                  )  
Plaintiff,                  )  
                                  )  
v.                             ) Civil Action No. 1:16-00391-JMC  
                                  )  
UNITED STATES;              )  
                                  )  
UNITED STATES DEPARTMENT OF  
ENERGY;                     )  
                                  )  
RICK PERRY, in his official capacity as  
Secretary of Energy;<sup>1</sup>        )  
                                  )  
NATIONAL NUCLEAR SECURITY    )  
ADMINISTRATION; and            )  
                                  )  
LT. GENERAL FRANK G. KLOTZ,  
in his official capacity as Administrator of the  
National Nuclear Security Administration and  
Undersecretary for Nuclear Security;    )  
                                  )  
Defendants.                    )  
                                  )

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**AMENDED SCHEDULING ORDER**

Pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules of this Court, the Scheduling Order entered February 8, 2017, ECF No. 77, is amended as follows.

1. The State and Federal Defendants have acknowledged and agree this matter is an action brought under the Administrative Procedure Act, 5 U.S.C. § 551 et seq., for review of an administrative record and therefore exempt from the initial and pretrial disclosure requirements under Rule 26 and Local Rule 26.03.

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<sup>1</sup> Rick Perry, Secretary of Energy, has been substituted for Dr. Ernest Moniz pursuant to Federal Rule of Civil Procedure 25(d).

2. The State and Federal Defendants shall engage in good faith settlement discussions, which shall be concluded by July 31, 2017. If both parties agree that mediation would be helpful to those discussions, such mediation will be conducted pursuant to the Mediation Order of this Court dated February 8, 2017, ECF No. 78. Any such mediation shall also be concluded by July 31, 2017.
3. If no settlement is reached by July 31, 2017, counsel for the parties shall inform the Court and a status conference will be scheduled by the Court. At the status conference, the parties will be prepared to discuss how they believe this case should proceed, including but not limited to: (1) whether any further time for settlement discussions or mediation would be appropriate in light of the progress of negotiations; (2) scheduling and disposition of the pending motion to dismiss and motion for summary judgment, if this Court has not yet issued decisions on those motions; (3) should the remainder of Defendants' motion to dismiss be denied, the date for the filing of Defendants' answer as to Plaintiff's remaining claims; (4) if necessary, the scheduling for the compilation and supplementation of an administrative record (including the filing of a notice of lodging and index for such administrative record) and (5) if necessary, a briefing schedule for cross-motions for summary judgment on the administrative record and any argument, if the Court deems argument appropriate.

**IT IS SO ORDERED.**

s/J. Michelle Childs  
J. MICHELLE CHILDS  
United States District Judge

March 10, 2017  
Columbia, South Carolina